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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,232	11/27/2001	Kim Marie Clark	7270-1	9656

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EXAMINER

NINO, ADOLFO

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,232

Applicant(s)

CLARK, KIM MARIE

Examiner

Adolfo Nino

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment A, filed on 3/20/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8, 10-14, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 9 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8, 10-14, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Zimmer et al. (US 5,016,859).

Regarding claim 6, Zimmer et al. disclose a device for jacketing an electrical cord (10 in fig. 2) in a cord cover (30), the electrical cord (10) having a wall outlet plug on one end thereof (16; col. 4, lines 7-8), comprising: a cord cover deployment member (40 in fig. 5), said deployment member (40) comprising a lengthwise tube (40) of substantially rigid material (col. 5, lines 15) having first and second opposing open ends and a lengthwise opening passing entirely therethrough between said first and second open ends (fig. 5), said lengthwise opening sized to allow the wall outlet plug of the electrical cord to pass entirely through said deployment member (col. 6, lines 32-34), a cord cover (30 in fig. 5), said cord cover (30) comprising a lengthwise permanently enclosed tube of pliable material (col. 4, lines 55-56) having first and second opposing open ends and a lengthwise opening passing entirely therethrough between said first and second open ends (fig. 5), said lengthwise opening of said cord cover (30) sized to tightly encircle an outer surface of said deployment member (fig. 5), said cord cover being at least four times longer than said deployment member when said cord cover is in a linearly uncompressed configuration (col. 6, lines 32-34), said deployment member (40)

inserted in said lengthwise opening of said cord cover such that said cord cover envelops said deployment member (fig. 5), and said cord cover (30) linearly compressed along said outer surface of said deployment member such that said cord cover is positioned entirely between said first and said second ends of said deployment member (fig. 5).

Regarding claim 7, Zimmer et al. disclose the device of claim 6, wherein said cord cover (30) is formed from a linear rectangular strip of fabric (col. 4, lines 55-56), a pair of opposing lengthwise edges (32,34) of said strip of fabric (30) permanently attached to one another to thereby form said permanently enclosed tube.

Regarding claim 8, Zimmer et al. disclose the device of claim 7, wherein said opposing lengthwise edges (32, 34) of said strip of fabric (30) are attached to one another via a lengthwise seam of stitches (36; col. 4, lines 62-64).

Regarding claim 10, Zimmer et al. disclose the device of claim 6, wherein said cord cover (30) is cylindrical (fig. 5).

Regarding claim 11, Zimmer et al. disclose the device of claim 10 wherein said hollow deployment member (40) is cylindrical (fig. 5).

Regarding claim 12, Zimmer et al. disclose a method of applying a cord cover (30) onto a cord cover deployment member (40) for subsequent use in applying the cord cover (30) around an electrical cord (10) having a wall outlet plug (16; col. 4, lines 7-8) comprising: providing a cord cover deployment member (40 in fig. 5), said deployment member (40) comprising a lengthwise tube of substantially rigid material having first and second opposing open ends and a lengthwise opening passing entirely therethrough

between said first and second open ends (fig. 5), said lengthwise opening sized to allow a wall outlet plug of an electrical cord to pass entirely through said deployment member (col. 6, lines 32-34), providing a cord cover (30 in fig. 5), said cord cover (30) comprising a lengthwise permanently enclosed tube of pliable material (col. 4, lines 55-56) having first and second opposing open ends and a lengthwise opening passing entirely therethrough between said first and second open ends (fig. 5), said lengthwise opening of said cord cover sized to tightly encircle an outer surface of said deployment member (fig. 5), said cord cover (30) being at least four times longer than said deployment member when said cord cover is in a linearly uncompressed configuration (col. 6, lines 32, 34), threading said deployment member through said lengthwise opening of said cord cover such that said cord cover envelops said deployment member (fig. 5), and linearly compressing said cord cover along said outer surface of said deployment member such that said cord cover is positioned entirely between said first and said second ends of said deployment member (col. 6, lines 10-11).

Regarding claim 13, Zimmer et al. disclose the method of claim 12, wherein said cord cover (30) is formed from a linear rectangular strip of fabric (col. 4, lines 55-56), a pair of opposing lengthwise edges (32, 34) of said strip of fabric (30) permanently attached to one another to thereby form said permanently enclosed tube.

Regarding claim 14, Zimmer et al. disclose the method of claim 13, wherein said opposing lengthwise edges (32, 34) of said strip of fabric (30) are attached to one another via a lengthwise seam of stitches (36; col. 4, lines 62-64).

Regarding claim 17, Zimmer et al. disclose a method of installing a cord cover (30) onto an electrical cord (10) comprising: providing a device for jacketing an electrical cord according to claim 6, threading a plug end (16; col. 4, lines 7-8) of an electrical cord (10) entirely through said lengthwise opening of said deployment member (fig. 2), sliding said cord cover (30) off of said deployment member and onto said electrical cord (10) to thereby encircle said electrical cord with said cord cover (fig. 6), removing said deployment member (40) from said electrical cord (col. 6, lines 58-62), and stretching said cord cover out along said electrical cord to thereby cover a substantial length of said electrical cord with said cord cover (col. 6, lines 32-34).

Regarding claim 18, Zimmer et al. disclose the method of claim 17, further comprising plugging a plug of said electrical cord (10) into an 110 electrical outlet without removing said cord cover from said electrical cord (col. 4, lines 7-8).

Allowable Subject Matter

Claim 16 is allowed.

Note that the reason for allowance of claim 16 was given in Paper No. 6, filed November 20, 2002.

Claims 9 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: With respect to claims 9 and 15, the cited prior art, alone or in combination,

does not disclose nor teach the limitation therein of "wherein said seam of stitches is formed along an inner surface of said cord cover" in combination with the other claim limitations.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

Applicant's arguments filed March 20, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument, submitted in page 7 of the REMARKS section of Paper No. 9, that the independent claims 6, 12, 17, and 18 are not anticipated by Zimmer et al. because the fabric tube (30) of Zimmer et al. is not "permanently

enclosed.”, but Examiner respectfully disagrees because until fastener or member 38 of Zimmer et al. is pulled, the fabric tube (30) of Zimmer et al. remains permanent.

In response to applicant's argument that the release tag (38) of Zimmer would mar its use as a potential electrical cord cover in decorative in-home or office settings, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's submitted Declaration Under 37 CFR § 1.132 establishing the commercial success of her invention, no patentable weight can be given based on the commercial success of an invention.

Applicant's arguments, see Amendment A, top paragraph of page 9, filed March 20, 2003, with respect to an interior seam have been fully considered and are persuasive. The rejection of dependent claims 9 and 15 has been withdrawn.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adolfo Nino whose telephone number is (703) 305-1071. The examiner can normally be reached on M-F (7:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A Reichard can be reached on (703) 308-3682. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AN
June 6, 2003


DEAN A. REICHARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800